

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

Custom Hardware Engineering)	
& Consulting, Inc.,)	
)	
Plaintiff/Counterclaim-Defendant/)	
Third Party Defendant,)	
)	
&)	Case No.: 4:10CV000653
)	
David York,)	
)	
Counterclaim-Defendant/)	
Third-Party Defendant,)	
)	
v.)	
)	
Jonathan D. Dowell, Marcus)	
K. Smith, William Pilling,)	
Tri-Point Development, Inc.,)	
)	
Defendants/Counterclaim-Plaintiffs,)	
)	
&)	
)	
Linda Pilling, and Laura Smith,)	
)	
Third-Party Plaintiffs.)	

MEMORANDUM AND ORDER

This matter comes before the Court on Defendants' Motion to Compel Production of Documents and Answers and Interrogatories [doc. #157], and Custom Hardware Engineering &

Consulting, Inc. and David York's Motion for Protective Order [doc. #170]. The Court held a hearing on March 23, 2011, wherein the Parties presented arguments on the pending Motions.

Accordingly,

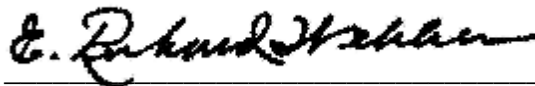
IT IS HEREBY ORDERED that Defendants' Motion to Compel Production of Documents and Answers and Interrogatories [doc. #157] is **GRANTED**, in part. Third-Party Defendants will produce all contracts or writings between the parties and with third-parties, including, but not limited to, IBM, MVSS, Fannie Mae, Bank of America, and the State of California, that mention, in any respect, E-PET. Counterclaim-Defendants' counsel states that Counterclaim-Defendants have already produced information sought on Paragraphs 1-24 on pages 12 and 13 of doc. #157. To the extent production by Counterclaim-Defendants has been incomplete, the Court concludes that Paragraphs 1-21 and Paragraph 24 are overbroad in their scope, and answering them would cause an undue burden, and relief as to these Paragraphs is denied. As to Paragraph 23, this Court concludes that this question calls for information that may require Mr. Schowalter to withdraw as counsel, in order to be a witness. At this time, without a showing of need for this information, this request is denied.

As to requests 1-14 on pages 17 and 18, they are overbroad in scope, and answering them would cause an undue burden. Relief as to these requests is denied, except for request No. 13. Request pertaining to No. 13 on page 18 is granted.

IT IS HEREBY FURTHER ORDERED that Third-Party Defendants are ordered to produce the names of individuals who have had access to view emails sent to checonsulting@checonsulting.com and/or ServicesUsers@cheservice.com.

IT IS HEREBY FURTHER ORDERED that Custom Hardware Engineering & Consulting, Inc. and David York's Motion for Protective Order [doc. #170] is **DENIED**. Third-Party Defendants are ordered to produce on or before **April 1, 2011 at 9:00 a.m.** at the Law Offices of Kevin J. Dolley, 7750 Clayton Road, Suite 102, St. Louis, Missouri 63117: (1) documents related to any external systems that were supported by E-PET licenses during Pilling's employment at CHE; (2) documents related to the use of E-PET licenses by any external system during Pilling's employment at CHE; (3) documents related to the net profits acquired by CHE for licensing E-PET to external systems; (4) documents related to payments made to Pilling during the course of his employment with CHE, including (a) any checks issued to Pilling from CHE; (b) any employment benefits paid to Pilling by CHE; (c) any time off benefits paid to Pilling by CHE; (d) any payment made to Pilling upon his termination by CHE; (5) all contracts with hardware maintenance companies; (6) other than contracts ordered produced under the Court's Order pertaining to doc. #157, contracts entered into with IBM mentioning E-PET; (7) other than contracts ordered produced under the Court's Order pertaining to doc. #157, contracts entered into with MVSS mentioning E-PET; (8) other than contracts ordered produced under the Court's Order pertaining to doc. #157; contracts with companies through which E-PET was used during the course of the contract.

Dated this 25th day of March, 2011.



E. RICHARD WEBBER
SENIOR UNITED STATES DISTRICT JUDGE